IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 227 OF 1993

Union of India ..Appellants

versus

Deepak Gulabchand ..Respondent

Mr. A. N.Samant for the Appellants.

Mr. G.J. Mohanrao for the Respondent.

CORAM : D. G. DESHPANDE,J.

DATE : 28TH MARCH,2005

ORAL ORDER :

1. Heard Mr. Samant counsel for the appellants - Union of India and counsel for the respondent, who undertakes to file Vakalatnama within one week from today.

2. The appeal involves short questions. Firstly, the liability is fixed against both the appellants, viz. Central Railway and as well as South Eastern Railway. There cannot be in the circumstances, and as held by me earlier, the liability of both the railways and liability of Central Railway only is to be maintained in this appeal.

3. So far as the second question is regarding awarding of interest at 12% per annum from the date of the application till realisation. Counsel for the appellants relied upon judgment of this Court reported in **2005 (1) Mh.L.J. 165 Maharashtra State Electricity Board vs. Union of India.** It was a claim against the Railways and the interest was awarded ultimately by the High Court at 9% per annum. I had also followed same judgment earlier, therefore on these two grounds, the appeal is to be partly allowed. Therefore, order :

ORDER

. Appeal is partly allowed.

. Liability of payment will be of the Respondent - General Manager Central Railway only, and not of South Eastern Railway. The amount awarded at Rs.7,150/- will carry interest at the rate of 9% per annum from the date of application i.e. 21.12.1984 till realisation or till date of payment or deposit with proportionate costs. So far as this appeal is concerned no order as to costs.

. Amount that is found in excess after the aforesaid calculation shall be returned to the appellant. Respondents will be permitted to withdraw the amount as per the calculations.

28.03.2005 (D.G. DESHPANDE, J.)